



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

<input checked="" type="checkbox"/> New	Vendor Code			Dept.	Contract Number	
<input type="checkbox"/> Change	PERSONA283		SC	OOA	A	
<input type="checkbox"/> Cancel						
County Department			Dept. Orgn.		Contractor's License No.	
Aging and Adult Services			OOA SYA			
County Department Contract Representative			Telephone		Total Contract Amount	
Regina Dalton			388-0241		\$70,000	
Contract Type						
<input type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input checked="" type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date		Contract End Date		Original Amount
		06/23/04		06/30/05		\$70,000
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
AAF	OOA	SYA				\$60,000
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
AAF	OOA	SYW				\$10,000
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Project Name			Estimated Payment Total by Fiscal Year			
MSSP and Linkages			FY	Amount	I/D	
Communication Device			04/05	\$70,000	I	

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, Department of Aging and Adult Services, hereinafter called the County, and

Name

Personal Emergency Response Systems, Inc.

hereinafter called Contractor

Address

1501 West Cameron Avenue, Suite 120

West Covina, CA 91790

Phone

Birth Date

800-777-9807 x 1052

Federal ID No. or Social Security No.

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS, The County desires to prevent the premature or inappropriate institutionalization of seniors or dependant adults by maintaining them in their own homes as long as possible, without jeopardizing their health, by providing them with medical alert communication devices; and

WHEREAS, County has been allocated funds by California Department of Aging, under the California Multipurpose Senior Services Program and Linkages Program, which has received funding from the U.S. Department of Health and Human Services using existing Social Security Act Title XIX and Title XX monies; new Social Security Act Title XIX monies granted from Federal Health Care Financing Administration; and State of California's General Fund monies to provide such services; and

WHEREAS, County finds Contractor qualified to provide communication devices and monitoring services; and

WHEREAS, County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below; and

NOW THEREFORE, County and Contractor mutually agree to the following terms and conditions:

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ATTACHMENT A – Scope of Services and Service Rates

ATTACHMENT B – Definition of Services

ATTACHMENT C – MSSP and Linkages Program Client Complaint and Grievance Procedure

ATTACHMENT D – HIPAA Business Associate Agreement

ATTACHMENT E – Disclosure Form to Report Lobbying

I. DEFINITIONS

- A. CCR – California Code of Regulations
- B. CDA – California Department of Aging
- C. CDSS – California Department of Social Services
- D. CFR – Code of Federal Regulations
- E. Contract – The cover sheet, the terms and conditions, attachments, addendums, and amendments, unless otherwise specified.
- F. DAAS – San Bernardino County Department of Aging and Adult Services. DAAS empowers seniors and at-risk adults by providing services and working with individuals, service providers, and communities to improve or maintain choice, independence, and quality of living.
- G. HSS – Human Services System. Oversees the ten Human Services System Departments and fosters concern for social programs within the county and communities as a whole.
- H. MSSP – Multipurpose Senior Services Program
- I. PERS – Personal Emergency Response System
- J. Service Unit – Unit of measure, related to cost
- K. State – State of California
- L. USC – United States Code

II. CONTRACTOR SERVICE RESPONSIBILITIES

- A. Contractor shall provide, in a satisfactory and proper manner, as determined by the County, the services defined and set forth in Attachments A and B, attached hereto and incorporated by these references into this Contract to clients enrolled in the MSSP and Linkages Program, based upon the services ordered by County staff.
- B. Contractor shall be responsible for providing, installing, maintaining, repairing, replacing, and 24-hour monitoring of PERS for all DAAS referred clients.
 - 1. Contractor will provide each DAAS client with a Health Watch Model 9000 ERS system. The ERS consists of a two-way voice communication base unit and remote transmitter.
 - 2. Contractor will contact each new client within 24 hours of receiving a service authorization from DAAS. Installation will be provided at the earliest convenient time and day for the DAAS client. If Contractor is unable to contract a DAAS client within five business days or arrange for installation within two weeks, Contractor customer service will notify the appropriate DAAS care manager and determine the next course of action. Installation includes client orientation and on-site testing of the equipment.
 - 3. Contractor will begin contacting current DAAS clients on June 23, 2004 to schedule replacement of existing communication equipment. Services will be initiated immediately upon installation. Services provided prior to July 1, 2004 will be at no charge to the County.
 - 4. Contractor will make a good faith effort to complete conversion of current DAAS clients by July 31, 2004.
 - 5. Contractor shall allow for 24-hour, seven-days per week communication, which allows clients to call for assistance as needed.
 - 6. 24-hour monitoring system shall occur through telephone lines.
- C. Contractor shall provide all necessary qualified personnel for performance of services under this Contract.

- D. Contractor shall record services and submit reports as required by the State of California and County, enumerating all services authorized and delivered to clients. Contractor shall make available to the County all records as necessary to conduct thorough and comprehensive contract monitoring and auditing, and to conduct evaluation concerning the Contractor and program as appropriate under terms of this Contract.
- E. Contractor is expected to maintain an ongoing cooperation between a client's other service providers, if any, and the County staff; and to supply information to and utilize information received from the County staff regarding referred clients.
- F. Contractor is required to complete CDA's vendor application provided to the Contractor by DAAS.
- G. Contractor must be incorporated and in good standing, and is responsible for advising the County of any actual or impending change in its corporate status.
- H. Contractor agrees to participate in appropriate employee training and development provided by DAAS, the CDA and the Administration on Aging.

III. CONTRACTOR GENERAL RESPONSIBILITIES

- A. In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the County of San Bernardino. Contractor certifies that neither it nor its principals is presently disbarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- B. Without the prior written consent of County, this Contract is not assignable by Contractor either in whole or in part.
- C. Contractor agrees to provide or has already provided information on former County of San Bernardino administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Administrative Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.
- D. If during the course of the administration of this Contract, the County determines that the Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.
- E. Contractor agrees not to enter into any subcontracts for work contemplated under the Contract without first obtaining written approval from the Assistant County Administrator – Human Services System. Any subcontractor shall be subject to the same provisions as Contractor. Contractor shall be fully responsible for the performance of any subcontractor.
- F. Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. Said records shall be kept and maintained within the County of Los Angeles or the County of San Bernardino. County shall have the right upon reasonable notice and at reasonable hours of business to examine and inspect such records and books.

Records, should include, but are not limited to, monthly summary sheets, sign-in sheets, and other primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must also comply with the appropriate Office of Management and Budget (OMB)

Circulars which state the administrative requirements, cost principles and other standards for accountancy.

All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records per the preceding requirements shall be considered grounds for withholding of payments for billings submitted and for termination of the Contract.

- G. Contractor shall notify County in writing of any change in mailing address and/or physical location within ten (10) days of the change, and shall immediately notify County of changes in telephone or fax numbers.
- H. Contractor shall notify County of any continuing vacancies and any positions which become vacant during the term of this Contract which will result in reduction of services to be provided under this Contract. Upon notice of vacancies, the Contractor shall apprise County of the steps being taken to provide the services and to fill the position as expeditiously as possible. Vacancies and associated problems shall be reported to County on each periodically required report for the duration of said vacancies and/or problems.
- I. Contractor shall designate an individual to serve as the primary point of contact for the Contract. Contractor shall notify HSS when the primary contact will be unavailable/out of the office for one (1) or more workdays. Contractor or designee must respond to County inquiries within two (2) County business days.
- J. Contractor will ensure that staff are knowledgeable on the MSSP and Linkages Client Complaint and Grievance Procedure (Attachment C) and ensure that any complaints by clients are referred to the County in accordance with the procedure. Contractor agrees to document, investigate, and resolve any and all client, or potential client, complaints relating to this Contract.
- K. Contractor shall notify County of all upcoming meetings of the Board of Directors or other governing party and shall keep County apprised of any and all actions taken by its Board of Directors which may impact on the Contract. All Board of Directors' minutes shall be submitted to County in the month following approval of the minutes. Further, a County representative shall have the option of attending Board meetings during the term of this Contract.
- L. Pursuant to the Health Insurance Portability And Accountability Act of 1996 (HIPAA), regulations have been promulgated governing the privacy of individually identifiable health information. The HIPAA Privacy Regulations specify requirements with respect to contracts between an entity covered under the HIPAA Privacy Regulations and its Business Associates. A Business Associate is defined as a party that performs certain services on behalf of, or provides certain services for, a Covered Entity and, in conjunction therewith, gains access to individually identifiable health information. Therefore, in accordance with the HIPAA Privacy Regulations, Contractor shall comply with the terms and conditions as set forth in the attached Business Associate Agreement, hereby incorporated by this reference.
- M. Contractor shall protect from unauthorized use or disclosure names and other identifying information concerning persons receiving services pursuant to this Contract, except for statistical information not identifying any participant. The Contractor shall not use or disclose any identifying information for any purpose other than carrying out the Contractor's obligations under this Contract. This provision will remain in force even after termination of the Contract.
- N. Contractor shall obtain from the Department of Justice (DOJ) records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment or volunteers for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code Section 11105.3. This includes licensed personnel who are not able to provide documentation of prior Department of Justice clearance. A copy of a license from the State of California is sufficient proof.
- O. Contractor shall notify County of any staff member, paid intern or volunteer who is knowingly or negligently employed who has been convicted of any crime of violence or of any sexual crime. Contractor shall investigate all incidents where an applicant, employee, intern or volunteer has been

arrested and/or convicted for any crime listed in Penal Code Section 11105.3 and shall notify County. In the County's discretion, the County may instruct Contractor to take action to either deny/terminate employment or terminate internship and/or volunteer services where the investigation shows that the underlying conduct renders the person unsuitable for employment, internship, or volunteer services.

Contractor shall immediately notify HSS concerning the arrest and/or conviction, for other than minor traffic offenses, of any paid employee, agent, consultant, intern, or volunteer staff, when such information becomes known to Contractor.

- P. Contractor shall make every reasonable effort to prevent employees, consultants or members of its governing bodies from using their positions for purposes that are or give the appearance of being motivated by a desire for private gain for themselves or others, such as those with whom they have family, business, or other ties. In the event County determines a conflict of interest exists, any increase in costs associated with the conflict of interest may be disallowed by County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, agents, or employees have family, business or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicants and such persons have successfully competed for employment with other applicants on a merit basis.
- Q. Contractor agrees to and shall comply with the following indemnification and insurance requirements:
1. Indemnification - The Contractor agrees to indemnify, defend, and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim therefore, except where such indemnification is prohibited by law.
 2. Insurance - Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the Contract the following types of insurance with minimum limits as shown:
 - a. Worker's Compensation - A program of Workers' Compensation insurance or a State-approved Self Insurance Program in amount or form to meet all applicable requirements of the Labor code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Contractor and all risks to such persons under this Contract.

If Contractor has no employees, it may certify or warrant to County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Risk Manager.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance. If the County's Risk Manager determines that there is no reasonably priced coverage for volunteers, evidence of participation in a volunteer insurance program may be substituted.
 - b. Comprehensive General and Automobile Liability Insurance - This coverage to include contractual coverage and automobile liability coverage of owned, hired and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).
 - c. Errors and Omissions Liability Insurance - Combined single limits of \$1,000,000 for bodily injury or property damage and \$3,000,000 in the aggregate or

Professional Liability - Professional liability insurance with limits of at least \$1,000,000 per claim or occurrence.

3. Additional Named Insured - All policies, except for Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder.
 4. Waiver of Subrogation Rights - Except for Errors and Omissions Liability and Professional Liability, Contractor shall require the carriers of the above required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors.
 5. Policies Primary and Non-Contributory - All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
 6. Proof of Coverage - Contractor shall immediately furnish certificates of insurance evidencing the insurance coverage required above, including endorsements, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the County, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Contract, the Contractor shall furnish certified copies of the policies and all endorsements.
 7. Insurance Review - The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements, to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.
 8. Any such reduction or waiver for the entire term of the Contract and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.
- R. Contractor shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Contract and shall procure all licenses and pay all fees and other charges required thereby. Contractor shall maintain all required licenses during the term of this Contract. Failure to comply with the provisions of this section may result in immediate termination of this Contract.
- S. Contractor shall comply with all applicable local health and safety clearances, including fire clearances, for each site where services are provided under the terms of this Contract.
- T. Contractor agrees to and shall comply with the County's Equal Employment Opportunity Program and Civil Rights Compliance requirements:
1. Equal Employment Opportunity Program: The Contractor agrees to comply with the provisions of the Equal Employment Opportunity Program of the County of San Bernardino and rules and regulations adopted pursuant thereto: Executive Order 11246, as amended by Executive Order 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964 (and Division 21 of the California Department of Social Services Manual of Policies and Procedures and California Welfare and Institutions Code, Section 10000), the California Fair

Employment and Housing Act, and other applicable Federal, State, and County laws, regulations and policies relating to equal employment or social services to welfare recipients, including laws and regulations hereafter enacted.

The Contractor shall not unlawfully discriminate against any employee, applicant for employment, or service recipient on the basis of race, color, national origin or ancestry, religion, sex, marital status, age, political affiliation or disability. Information on the above rules and regulations may be obtained from County HSS Contracts Unit.

2. Civil Rights Compliance: The Contractor shall develop and maintain internal policies and procedures to assure compliance with each factor outlined by state regulation. These policies must be developed into a Civil Rights Plan, which is to be on file with County HSS Contracts Unit within 30 days of awarding of the Contract. The Plan must address prohibition of discriminatory practices, accessibility, language services, staff development and training, dissemination of information, complaints of discrimination, compliance review, and duties of the Civil Rights Liaison. Upon request, HSS shall supply a sample of the Plan format. The Contractor shall be monitored by HSS for compliance with provisions of its Civil Rights Plan.
- U. Contractor agrees to comply with all applicable provisions of the Americans with Disabilities Act (ADA).
- V. Contractor shall observe the mandatory standards and policies relating to energy efficiency in the State Energy Conservation Plan (Title 20, Division 2, California Code of Regulations).
- W. If the amount available to Contractor under this Contract, as specified in Section V, Paragraph A, exceeds \$100,000, Contractor agrees to comply with Section 306 of the Clean Air Act (42 USC 1857 h), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738 and Environmental Protection Agency regulations (40 CFR, Part 15).
- X. Contractor shall use recycled and recyclable products, whenever practicable, in fulfilling the terms of this Contract. Recycled printed products shall include a symbol identifying the recycled material.
- Y. Contractor understands and agrees that any and all legal fees or costs associated with lawsuits concerning this Contract against the County shall be the Contractor's sole expense and shall not be charged as a cost under this Contract. In the event of any Contract dispute hereunder, each Party to this Contract shall bear its own attorney's fees and costs regardless of who prevails in the outcome of the dispute.
- Z. Contractor agrees to and shall comply with the County's Elder and Dependent Adult Abuse Reporting requirements:
 1. Contractor will ensure that all known or suspected instances of elder or dependent adult abuse are reported to DAAS Adult Protective Services.
 2. In accordance with W & I Code section 15630, all employees of the Contractor and its subcontractors are mandated reporters of elder and dependent adult abuse. Contractor assures all employees, agents, consultants or volunteers who perform services under this Contract and are mandated to report elder and dependent adult abuse will sign a statement, upon the commencement of their employment, acknowledging their reporting requirements and their compliance with them.
 3. Mandated reporters are required to report all instances of known or suspected abuse of the elderly and dependent adults by telephone immediately or as soon as practically possible, under the following circumstances:
 - a. When the mandated reporter has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, isolation, financial abuse, or neglect; or

- b. When the mandated reporter is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, isolation, financial abuse, or neglect;
 - c. A written "Report of Suspected Dependent Adult/Elder Abuse" (SOC 341) must be submitted within two (2) working days of making the telephone report to the responsible agency, as defined below in paragraph 4.
- 4. Incidents of elder and dependent adult abuse must be reported to the correct agency as follows:
 - a. If the abuse has occurred in a long term care facility, except a state mental hospital or state developmental center, the report shall be made to the local Long term Care Ombudsman or local law enforcement;
 - b. If the abuse has occurred in a state mental hospital or state developmental center, the report shall be made to the designated investigators of the State Department of Mental Health or the State Department of Developmental services or to the local law enforcement;
 - c. If the abuse occurred anywhere other than a long term care facility or state mental hospital or state developmental center, the report shall be made to Adult Protective Services or local law enforcement.
- 5. Under the terms of this Contract, as changes in the Elder and Dependent Adult Reporting Laws are enacted, the Contractor is bound to comply with the most current regulations.

IV. COUNTY RESPONSIBILITIES

- A. The County staff is responsible for:
 - 1. MSSP and Linkages client enrollment, assessment, and case planning;
 - 2. Arranging with Contractor to provide services;
 - 3. Sharing client information when necessary or appropriate;
 - 4. Specifying authorized services and time frames or services requested via a Service Authorization Form;
 - 5. Monitoring service delivery;
 - 6. Notifying the Contractor regarding any modifications of service; or the termination of services; and
 - 7. Processing claims from Contractor for payment of services.
- B. It will be the responsibility of the County to keep the Contractor informed of any changes in the program which affect the delivery of services by the Contractor, and to resolve any problems or conflicts between Contractor and DAAS clients.

V. FISCAL PROVISIONS

- A. The maximum amount of payment under this Contract shall not exceed \$70,000 and shall be subject to the availability of funds to the County. The County is under no obligation to make any referrals for the purpose of services during the lifetime of this Contract.
- B. The Contractor shall be compensated on a unit cost basis, as established in Attachment A, attached hereto and incorporated by reference into this contract.

- C. Contractor will provide monthly invoices (format to be provided by DAAS), which include a detailed breakdown by client, service type and total units of service, to the address below:

DAAS Administration
Attn: Fiscal Unit
686 East Mill Street
San Bernardino, CA 92415-0640

- D. Upon receipt of an approved invoice, the County shall pay the Contractor for services authorized the previous month. The completed invoice is to be received by the fifth (5th) working day of the month. Under normal conditions, Contractor shall expect payment approximately twenty-one (21) days after submission of a correctly prepared invoice. No request for payment of funds shall be approved by County representatives until properly completed reports required under this Contract have been filed by Contractor.
- E. If Contractor is not in compliance with any provision of this Contract, DAAS may withhold payment of any invoice submitted to DAAS by Contractor until such time as suitable documentation is submitted to DAAS.
- F. DAAS shall pay Contractor only for services ordered by authorized DAAS staff. The Contractor agrees that payment for each service furnished under this Contract made in accordance with the rates stipulated herein, represents payment in full for said service. The Contractor shall not seek reimbursement from County for any services reimbursed in whole or in part by any other payor.
- G. Contractor is to provide the requested services in accordance with the timelines set by DAAS. Where the Contractor does not provide a definite date to commence providing the ordered services within five (5) working days of service start-up as specified by DAAS, the request for service becomes automatically void and DAAS will have no obligation to pay for any services provided under such request for services.
- H. If Contractor cannot provide authorized services to a specific client, or feels the authorized services are not appropriate, Contractor shall notify DAAS staff within three (3) working days of receipt of request for services.
- I. Costs for services under the terms of this Contract will be incurred during the term of the Contract except as approved by County. County will not use current year funds to pay prior or future year obligations.
- J. Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations which have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.
- K. It is understood that the implementation of services is dependent upon care plans developed by DAAS staff for DAAS clients, and ordered from the Contractor.
- L. County is not liable for the payment of any taxes, other than applicable sales or use tax, resulting from this Contract however designated, levied or imposed, unless County would otherwise be liable for the payment of such taxes in the course of its normal business operations.
- M. The Contractor, by signing this Contract, hereby certifies to the best of his or her knowledge and belief, that:
1. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative

agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" (Attachment E), in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in any subcontracts at all tiers, and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

VI. RIGHT TO MONITOR AND AUDIT

- A. County shall have the absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract.
- B. The Contractor shall provide access to the County or any subdivision or appointee thereof, Federal or State Contractor agency, Bureau of State Audits, the Controller General of the United States, or any of their duly authorized federal or State representatives to any books, documents, papers, records, and electronic files of the Contractor or subcontractor which are directly pertinent to this specific Contract for the purpose of audit, examination, excerpts, and transcriptions, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract.
- C. Contractor shall cooperate with County in the implementation, monitoring and evaluation of this Contract and comply with any and all reporting requirements established by this Contract.
- D. All records pertaining to service delivery and all fiscal, statistical and management books and records shall be available for examination and audit by County, Federal and State representatives for a period of three years after final payment under the Contract or until all pending County, State and Federal audits are completed, whichever is later. Records of the Contractor which do not pertain to the services under this Contract may be subject to review or audit unless provided in this or another Contract. Technical program data shall be retained locally and made available upon the County's reasonable advance written notice or turned over to County. If said records are not made available at the scheduled monitoring visit, Contractor may, at County's option, be required to reimburse County for expenses incurred due to required rescheduling of monitoring visit(s). Such reimbursement will not exceed \$50 per hour (including travel time) and be deducted from the following month's claim for reimbursement.
- E. Records of the Contractor that do not pertain to the program shall not be subject to audit unless provided for in another agreement.
- F. Contractor shall provide all reasonable facilities and assistance for the safety and convenience of County's representatives in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work of the Contractor.

VII. CORRECTION OF PERFORMANCE DEFICIENCIES

- A. Correction of Performance Deficiencies

1. Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.
2. In the event of a non-cured breach, County may, at its sole discretion and in addition to immediate termination and any other remedies available at law, in equity, or otherwise specified in this Contract:
 - a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at sole discretion of County; and/or
 - b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
 - c. Withhold funds pending duration of the breach; and/or
 - d. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Section VII, Paragraph A, Item 2; and/or
 - e. Impose liquidated damages which will reduce the total reimbursable amount of the Contract by the amount(s) levied and not claimable by Contractor. This remedy shall only be used when reasonable efforts to correct a performance or violation deficiency have failed to correct the problem, or in circumstances of unacceptable or negligent performance of Contractor as determined by County. There is no limit to the number of adjustments County may levy per each instance.
 - f. Terminate this Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

B. Appeal Procedures

If Contractor disagrees with any decision or action taken by the County or DAAS related to this Contract, Contractor may choose to file a formal grievance by following the procedures below:

1. The Contractor shall file a formal written grievance with the Director of DAAS within fifteen (15) business days after the Contractor is aware of the factors or conditions precipitating the contract dispute. The written grievance shall set forth the subject of the grievance, identify the specific clause in dispute and shall provide a detailed statement of the grievance, including dates, names, places, and the specific remedy or action requested. The filing address is 686 East Mill Street, San Bernardino, California, 92415-0640. The Director of DAAS shall provide a written response to Contractor within fifteen (15) business days of receipt of the grievance.
2. If Contractor is not satisfied with the Director of DAAS' response, Contractor may file a written grievance appeal, which shall include a statement by the Contractor as to why the Director of DAAS' response is not satisfactory, to the Assistant County Administrator of the Human Services System ("Assistant County Administrator") within fifteen (15) business days of receipt of the Director of DAAS' response. The filing address is 385 North Arrowhead Avenue, Fifth Floor, San Bernardino, California, 92415-0128. The Assistant County Administrator shall provide a written response to Contractor within fifteen (15) business days. The Assistant County Administrator shall have final authority for the decision on the grievance except as provided in the paragraph below.
3. For those appeals which involve CDA programmatic policies and directives issued to the County and contained within this Contract, this paragraph shall apply. If Contractor is not satisfied with the Assistant County Administrator's decision, the written grievance may be registered in writing with the CDA, Case Management Branch, 1600 "K" Street, Sacramento,

California, 95814, within fifteen (15) business days following receipt of the Assistant County Administrator's decision. Contractor shall submit to CDA the original written grievance along with a copy of the Director of DAAS' written response, the Contractor's appeal to the Assistant County Administrator, and the Assistant County Administrators' decision. CDA shall have final authority for the decision on the grievance.

VIII. TERM

- A. This Contract is effective as of June 23, 2004 and expires June 30, 2005, but may be terminated earlier in accordance with provisions of Section IX of the Contract. Services provided prior to July 1, 2004 will be at no charge to the County. The Contract term may be extended for two additional one-year periods by mutual agreement of the parties.
- B. This Contract is of no force or effect until signed by both parties hereto and approved by the Board of Supervisors of San Bernardino County. The Contractor shall not commence performance until such approval has been obtained; failure to obtain such approval may result in non-payment for the performance of those services.

IX. EARLY TERMINATION

- A. The County may terminate the Contract immediately under the provisions of Section VII of the Contract. In addition, the Contract may be terminated without cause by the County by serving a written notice to the Contractor thirty (30) days in advance of termination. The Assistant County Administrator – Human Services System is authorized to exercise the County's rights with respect to any termination of this Contract.
- B. Contractor shall only be reimbursed for costs and uncancelable obligations incurred prior to the date of termination. Contractor shall not be reimbursed for costs incurred after the date of termination.

X. GENERAL PROVISIONS

- A. When notices are required to be given pursuant to this Contract, the notices shall be in writing and mailed to the following respective addresses listed below.

Contractor: Personal Emergency Response Systems, Inc.
1501 West Cameron Avenue, Suite 120
West Covina, CA 91790

County: County of San Bernardino
Human Services System
Attn: Contracts Unit
150 S. Lena Road
San Bernardino, CA 92415-0515

County (***Insurance Information Only***):
County of San Bernardino
c/o Insurance Data Services
P.O. Box 12010 – CB
Hemet, CA 92546-8010

- B. Nothing contained in this Contract shall be construed as creating a joint venture, partnership or employment arrangement between the parties hereto, nor shall either party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other party hereto.
- C. Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to, cash, discounts, service, the provision of travel or entertainment, or any

items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate any Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once an Contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or to the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

- D. County shall have Power of Attorney to pay delinquent debts and unpaid wages for work provided under this Contract from accounts payable to Contractor in the event debts and wages have not been paid on a current basis.
- E. No waiver of any of the provisions of the Contract shall be effective unless it is made in a writing which refers to provisions so waived and which is executed by the parties. No course of dealing and no delay or failure of a party in exercising any right under the Contract shall affect any other or future exercise of that right or any exercise of any other right. A party shall not be precluded from exercising a right by its having partially exercised that right or its having previously abandoned or discontinued steps to enforce that right.
- F. Any alterations, variations, modifications, or waivers of provisions of the Contract, unless specifically allowed in the Contract, shall be valid only when they have been reduced to writing, duly signed and approved by the Authorized Representatives of both parties as an amendment to this Contract. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.
- G. If any provision of the Contract is held by a court of competent jurisdiction to be unenforceable or contrary to law, it shall be modified where practicable to the extent necessary so as to be enforceable (giving effect to the intention of the Parties) and the remaining provisions of the Contract shall not be affected.
- H. This Contract shall be governed by and construed in all aspects in accordance with the laws of the State of California without regard to principles of conflicts of laws. The parties agree to the exclusive jurisdiction of the federal and state court located in the County of San Bernardino, for any and all disputes arising under this Contract, to the exclusion of all other federal and state courts.

XI. CONCLUSION

- A. This Contract, consisting of 15 pages and Attachments A through E, is the full and complete document describing services to be rendered by Contractor to County including all covenants, conditions and benefits.
- B. The signatures of the Parties affixed to this Contract affirm that they are duly authorized to commit and bind their respective institutions to the terms and conditions set forth in this document.

- C. **IN WITNESS WHEREOF**, the Board of Supervisors of the County of San Bernardino has caused this Contract to be subscribed to by the Clerk thereof, and Contractor has caused this Contract to be subscribed in its behalf by its duly authorized officers, the day, month and year written.

COUNTY OF SAN BERNARDINO

►
Dennis Hansberger, Chairman, Board of Supervisors

Dated _____

SIGNED AND CERTIFIED THAT A COPY OF THIS
DOCUMENT HAS BEEN DELIVERED TO THE
CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors
of the County of San Bernardino.

By _____
Deputy

Personal Emergency Response Systems, Inc.
(Print or type name of corporation, company, contractor, etc.)

By ►
(Authorized signature - sign in blue ink)

Name Richard M. Brooks
(Print or type name of person signing contract)

Title President
(Print or Type)

Dated _____

Address 1501 West Cameron Avenue, Suite 120
West Covina, CA 91790

Approved as to Legal Form

►
Phebe W. Chu, County Counsel

Date _____

Reviewed by Contract Compliance

►
Lori Ciabattini, HSS Contracts Unit

Date _____

Presented to BOS for Signature

►
Mary R. Sawicki, Director

Date _____

**Auditor/Controller-Recorder
Use Only**

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

San Bernardino County
Department of Aging & Adult Services

AGENCY: Personal Emergency Response Systems, Inc. **PHONE:** 888-565-7377

MAILING ADDRESS: 1501 West Cameron Avenue, Suite 120, West Covina, CA 91790

STREET ADDRESS: 1501 West Cameron Avenue, Suite 120, West Covina, CA 91790

CONTACT PERSON: Anthony Lopez **FAX:** 800-253-0216

SERVICE SITE: 1501 West Cameron Avenue, Suite 120, West Covina, CA 91790

CONTACT PERSON: Anthony Lopez

HOURS OF OPERATION: 24 hours per day/365 days per week

Scope of Services

Contractor shall provide Communication Device services as defined in Attachment "B" of this Contract for clients of the Multipurpose Senior Services Program and Linkages Program. It is understood that the implementation of services is dependent upon care plans developed by Multipurpose Senior Services Program and Linkages Program staff for Multipurpose Senior Services Program and Linkages Program clients, and ordered from DAAS.

Service Rates

Service	Service Number	Cost Per Unit	Unit Type
Communication Device Includes a new Model HW9000 ERS, a base console unit and a pendant transmitter that can be worn around the neck, on the wrist, or with a belt clip.	9.2		
Equipment Rental & 24 hr monitoring Includes service calls and pick up of the equipment upon termination of service to DAAS clients. Also, Contractor will repair or replace the base unit and pendant transmitters if they are damaged or lost by DAAS clients.		\$20.00**	Per month
Equipment Installation Current DAAS clients will be converted at no charge (approximately 240 current customers).		\$25.00	Per new installation after conversion of current DAAS clients.

San Bernardino County
Department of Aging & Adult Services

Definition of Services

9.2 Communication/Devices

The rental/purchase of mechanical/electronic devices or installation of a telephone, to assist in communication (excluding hearing aids, eye appliances, and monthly telephone charges) for clients who are at risk of institutionalization due to physical conditions likely to result in a medical emergency. Purchase of emergency response systems is limited to those clients who live alone, or who are alone for significant parts of the day, and have no regular caretaker for extended periods of time, and who would otherwise require extensive routine supervision. Items such as identification bracelets or cards used to communicate vital client information in case of emergency may also be purchased.

San Bernardino County - Department of Aging and Adult Services
MSSP and Linkages Program
CLIENT COMPLAINT & GRIEVANCE PROCEDURES

(Instructions: The service recipient is to read, sign, and receive a copy of this form. The original of the form is to be filed in the service recipient's case file maintained by contractor. The reverse side of this form may be used to file a complaint or grievance with the contractor/service provider.)

If you believe you have been discriminated against, or that there has been a violation of any laws or regulations, or if you have a problem regarding services received, you have the right to file a grievance.

The following procedures are to be followed when filing a grievance:

1. Identify the complaint/grievance in writing and discuss it with the contractor/service provider.

Time frame: Within 1 week of discrimination/violation/problem.

If resolved at this level, no further action is required. If no resolution is apparent within 15 business days, proceed with Step 2.

2. Forward the written complaint/grievance to the Administrative Supervisor II at the following address:

Department of Aging and Adult Services
686 East Mill Street
San Bernardino, CA 92415-0640
ATTN: **Administrative Supervisor II, Administration**

Time frame: Within 1 week of Step 1.

If resolved at this level, no further action is required. If no resolution is apparent within 15 business days, proceed with Step 3.

3. If no solution is apparent after Steps 1-2 have been exhausted, forward copy of written grievance to:

Human Services Group, Contract Administrator
150 S. Lena Road
San Bernardino, CA 92415-0515

You will be contacted within 15 business days of any actions being taken.

Please note: Each of these steps must be completed in the sequence shown.

If you believe that your civil rights have been violated, please contact:

Administrative Supervisor II, Administration
Department of Aging and Adult Services
686 East Mill Street
San Bernardino, CA 92415-0640

GRIEVANCE PROCEDURE CERTIFICATION

This is to certify that I have read, understood, and received a copy of the San Bernardino County Department of Aging and Adult Services Grievance Procedure.

Signature of Service Recipient

Date

GRIEVANCE NOTICE

ATTACHMENT C

Your Name:
Date of Occurrence:
Approximate Time of Occurrence:
Name of Service Provider:
Address of Service Provider:
Nature of Grievance:
Resolution:

Resolved by: _____

Signature

Date

Signature of Service Recipient

Date

HIPAA BUSINESS ASSOCIATE AGREEMENT

Except as otherwise provided in this Agreement, CONTRACTOR, hereinafter referred to as BUSINESS ASSOCIATE, may use or disclose Protected Health Information to perform functions, activities or services for or on behalf of the COUNTY OF SAN BERNARDINO, hereinafter referred to as the COVERED ENTITY, as specified in this Agreement and in the attached Contract, provided such use or disclosure does not violate the Health Insurance Portability Act (HIPAA), 42 U.S.C. 1320d et seq., and its implementing regulations, including but not limited to, 45 Code of Regulations Parts 160, 162, and 164, hereinafter referred to as the Privacy Rule.

I. Obligations and Activities of Business Associate.

- a. Business Associate shall not use or further disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law.
- b. Business Associate shall implement administrative, physical, and technical safeguards to:
 1. Prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
 2. Reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- c. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.
- d. Business Associate shall report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement of which it becomes aware.
- e. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, shall comply with the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.
- f. Business Associate shall provide access to Protected Health Information in a Designated Record Set to Covered Entity or to an Individual, at the request or direction of Covered Entity and in the time and manner designated by the Covered Entity, in order to meet the requirements of 45 CFR 164.524.
- g. Business Associate shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526, in the time and manner designated by the Covered Entity.
- h. Business Associate shall make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of

Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, and/or to the Secretary for the U.S. Department of Health and Human Services, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

- i. Business Associate shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- j. Business Associate shall provide to Covered Entity or an Individual, in time and manner designated by the Covered Entity], information collected in accordance with provision (i), above, to permit Covered Entity to respond to a request by the Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.
- k. Upon termination of this Agreement, Business Associate shall return all Protected Health Information required to be retained (and return or destroy all other Protected Health Information) received from the Covered Entity, or created or received by the Business Associate on behalf of the Covered Entity. In the event the Business Associate determines that returning the Protected Health Information is not feasible, the Business Associate shall provide the Covered Entity with notification of the conditions that make return not feasible.

II. Specific Use and Disclosure Provisions.

- a. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- b. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- c. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation services to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).
- d. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 CFR 164.502(j)(1).

III. Obligations of Covered Entity.

- a. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.
- b. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.
- c. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

IV. General Provisions.

- a. Remedies. Business Associate agrees that Covered Entity shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which Covered Entity may have at law or in equity in the event of an authorized use or disclosure of Protected Health Information by Business Associate or any agent or subcontractor of Business Associate that received Protected Health Information from Business Associate.
- b. Ownership. The Protected Health Information shall be and remain the property of the Covered Entity. Business Associate agrees that it acquires not title or rights to the Protected Health Information.
- c. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended.
- d. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- e. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy Rule.